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SUBJECT: 2003 Investment Climate Statement for Honduras

REF: SECSTATE 124894

1. Provided below is the 2003 Investment Climate Statement for Honduras. Responses are keyed to reftel.

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A.1. Openness to Foreign Investment  
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2. The Honduran government is generally open to foreign investment and welcomes it. Restrictions and performance requirements are fairly limited. U.S. companies tend to encounter problems investing in infrastructure and a few visible large projects like the airport, telecom and energy sectors, as domestic companies seek ways to keep the competition out.

3. Since 1999, the Honduran government has taken steps, including additional legislative measures, to create a more favorable investment climate in key sectors including mining, energy and tourism, although their potential has yet to be realized. Relatively low labor costs, proximity to the U.S. market and Central America's best Caribbean port have also made Honduras increasingly attractive to investors. At the same time, however, Honduras' investment climate is hampered by high levels of crime, juridical insecurity, high levels of corruption, low educational levels among the population, an antiquated labor code, a troubled financial sector and limited infrastructure.

4. The Constitution of Honduras requires that all foreign investment complement, but not substitute for, national investment. Companies that wish to take advantage of the Agrarian Reform Law, engage in commercial fishing, forestry, or local transportation activities, serve as representatives, agents, or distributors for foreign companies, or operate radio and television stations must be majority-owned by Hondurans.

5. The 1992 Investment Law, which still largely governs investment conditions in Honduras, guarantees national treatment to foreign private firms in Honduras, with only a few exceptions. The law does not limit foreign ownership of businesses, except for those specifically reserved for Honduran investors, i.e., small firms with capital less than 150,000 Lempiras (approx. USD 8,600). For all investments, at least 90 percent of a company's labor force must be Honduran, and at least 85 percent of the payroll must be paid to Hondurans. Under the 1992 law, dividends to foreign investors were taxed at 15 percent, while local investors paid only 10 percent. However in 2002 a revised law was passed which lowered this tax rate to 5 percent for both foreign and local investors, and will eliminate this tax entirely by 2004.

6. Additionally, government authorization is required for both foreign and domestic investors in the following areas:

- Basic health services,
- Telecommunications,
- Generation, transmission, and distribution of electricity,
- Air transport,
- Fishing, hunting and aquaculture,
- Exploitation of forestry resources,
- Investigation, exploration, and exploitation of mines, quarries, petroleum and related substances,
- Agricultural and agro-industrial activities exceeding land tenancy limits established by the Agricultural Modernization Law of 1992 and the Land Reform Law of 1974,
- Insurance and financial services, and
- Private education services.

7. Foreign firms are granted national treatment for public bids. In practice U.S. firms complain about the mismanagement and lack of transparency of government bid processes. Under the 2001 State Contracting Law, all public works contracts over one million Lempiras (USD 57,000) must be offered through public competitive bidding. The government publishes tenders in Honduras' major

newspapers. To participate in public tenders, foreign firms are required to act through a local agent. Local agency firms must be at least 51 percent Honduran-owned, unless the procurement is linked to a national emergency. Government purchases and project acquisitions are generally exempted from import duties.

18. The 1992 Investment Law requires that all local and foreign direct investment be registered with the Investment Office in the Ministry of Industry and Trade. Upon registration, an investor is issued an investment certificate which provides investment protection under the law and guarantees investors' international arbitration rights. The registration process is cumbersome and companies can expect delays in registering their company.

19. In July 2002, the Government of Honduras ratified a law on simplification of administrative procedures in establishing a company. Through this new legislation, the government hoped to streamline procedures and eliminate a series of administrative obstacles involved in the process, reducing the steps for establishing an office from up to six months to a maximum of 40 days. Foreign businesses setting up operations in Honduras are subject to the Commercial Code, which is also undergoing various important reforms. The Commercial Code recognizes several types of mercantile organizations: individual ownership, general partnership, simple limited partnership, limited liability company, corporation and joint stock company.

10. Management of Honduras' four international airports was turned over to a consortium with majority U.S. investment in October 2000, the only major privatization effort in recent years. A dispute over the financing of certain projects that the consortium agreed to undertake soon developed, and a re-negotiated agreement between the consortium and the government is expected to be finalized soon.

11. A bid to privatize the national telephone company failed in 2001 and will not be attempted again until 2005. In late 2001, the GOH decided to open the telecom market by bidding out one of Honduras' available wireless bands. After several delays, the government awarded one wireless system concession in April 2002, and the company is expected to be in service by December 2003. The Honduran government intends to allow private joint ventures with Hondutel to improve coverage and service beginning in August 2003, and later to encourage private participation in the sale of shares in Hondutel to private interests beginning in 2004 with the goal of full privatization in 2005.

12. The National Electric Company (ENEE) turned over most of its thermal energy generation to the private sector but retains responsibility for electricity transmission and distribution, as well as for almost all hydroelectric energy generation and distribution throughout the country. The GOH is working on a project to break up ENEE distribution and is working towards privatization, though there is no firm timeline set.

13. The GOH hopes to begin privatizing some port operations in September, 2003 and is working with the U.S. Trade and Development Agency to expand and modernize Puerto Cortes. The ENP and the World Bank are working to meet International Maritime Organization requirements for port security by July 1, 2004, including the creation of an autonomous unit which will be responsible for the port security program.

14. A law is currently before Congress which would formally grant municipalities the right to manage water distribution themselves, and possibly to grant concessions to private enterprises. However the law has generated a good deal of controversy from opposition groups which claim that it amounts to "privatization" of water distribution, and its progress through Congress has been slowed.

#### ----- A.2. Conversion and Transfer Policies -----

15. The 1992 Investment Law guarantees foreign investors access to foreign currency needed to transfer funds associated with their investments in Honduras. This includes:

- Imports of goods and services necessary to operate,
- Payment of royalty fees, rents, annuities and technical assistance, and
- Remittance of dividends and capital repatriation.

16. The Central Bank uses an auction system to regulate the allocation of foreign exchange. According to auction system regulations, dollar purchases are conducted at 7 percent above or below the base price established every 5 days. During recent auctions, the Central Bank has adjudicated an average of USD 10.3 million per auction (held each business day). All individuals, foreign residents or national, can participate in auction system dollar purchases with a minimum investment of USD 5,000 and a maximum of USD 300,000. Foreign exchange demand in 2002 was 99.9 percent covered, and the currency depreciated by 6.3 percent.

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### A.3. Expropriation and Compensation

17. The Honduran government has the authority to expropriate property for purposes of land reform (usually related to a land invasion by farmer groups) or for public use such as construction of an airport. Land disputes related to actions by the Honduran National Agrarian Institute (INA) are common for both Honduran and foreign landowners. According to the National Agrarian Reform Law, idle land fit for farming can be expropriated and awarded to landless poor. Generally, an INA expropriation case begins after squatters target and invade unprotected property. The squatters then file for the land with the INA under the Agrarian Reform Law. In most cases, claimants have found that pursuing the subsequent legal avenues is costly and time consuming, and rarely lead to positive results. Compensation for land expropriated under the Agrarian Reform Law, when awarded, is paid in 20-year government bonds.

18. Land title disputes are extremely common in Honduras. Even areas which have been subjected to a cadastral survey have not been free of land disputes, as the lack of a single unified land registry makes adjudication of land tenure difficult. As of July 2003, a proposal is before congress for a new property institute which would combine the national land registry with the cadastral survey and the geographic institute. The proposed property institute would provide for more security in land titling and ownership in Honduras, as well as allow for mortgages and home loans. The national land survey project has been completed in the Bay Islands and is close to completion in the Comayagua area. Tegucigalpa and San Pedro Sula are scheduled for the next phase of the project.

### A.4. Dispute Settlement

19. The Honduran Commercial Code is the main legislation that regulates the operations of businesses in the country. This code, though, is antiquated and needs to be updated. The application of the Commercial Code and its regulations fall under the jurisdiction of the Honduran civil court system.

20. Most investment and property disputes are long lasting and arduous. U.S. claimants frequently complain about the lack of transparency and the slow administration of justice in the courts. There are also complaints that the Honduran judicial system caters to favoritism, external pressure and bribes. While some U.S. firms have satisfactorily resolved their cases through the courts, the majority have difficulty navigating the legal system. U.S. citizens also complain about the quality of Honduran attorneys. The government frequently blames the poor quality of a U.S. citizen's (Honduran) legal representative as the reason for an unfavorable outcome in the courts.

21. The process to resolve squatter cases or title disputes through the courts can be lengthy and frustrating. The legal owner of land is at a disadvantage in a system that recognizes adverse possession rights acquired by squatters, especially when the disputed land is rural and idle.

#### 22. Arbitration

Between 1997 and 2001, the Inter-American Development Bank worked with the Chamber of Commerce and Industry to establish the framework for commercial arbitration. Honduras' Conciliation and Arbitration Law (Decree 161-2000), which seeks to encourage arbitration and clarify the procedures under which arbitration takes place, entered into force in March 2001. In September 2001, Centers for Conciliation and Arbitration were established within the Chambers of Commerce and Industry in Tegucigalpa and San Pedro Sula. Since that time, the Center in Tegucigalpa has trained 17 arbitrators who work part-time, and they have completed 2 arbitrations and 18 conciliations. Approximately 5 arbitrations and 20 conciliations are pending in the Tegucigalpa Center. Arbitration and conciliation are generally considered swifter and more cost-effective means of resolving disputes between commercial entities, and there may be the additional advantage that the arbitrator or mediator may have specialized expertise in the technical area involved in the dispute. However the only U.S. company to have gone through an arbitration process to date was disappointed with both the procedure (which it regarded as lacking in transparency) and the result (which was unfavorable to the U.S. company).

Honduras is not a member of the ICSID (International Center for the Settlement of Investment Disputes).

### A.5. Performance Requirements/Incentives

23. There are relatively few performance requirements in Honduras. The 1992 Investment Law guarantees freedom to export and import to all foreign investors, and eliminates the requirement of prior administrative permits and licenses, except

for statistical registries and customs procedures.

124. Application procedures for service suppliers in all sectors are generally simple, clear and non-discriminatory. There are restrictions preventing foreign banks from taking deposits, and foreign insurance companies may be subject to a more elaborate administrative process than national providers per a new Insurance Law (though the Embassy has not received any complaints). Honduras' service sector is widely accessible to foreign companies, including current U.S. participation in the Honduran banking, insurance and accounting markets.

125. Honduran law prohibits discriminatory or preferential export and import policies affecting foreign investors. In practice, though, the Honduran government uses phyto-sanitary and zoosanitary requirements to prevent imports of U.S. poultry, milk products, pork, feed grains and rice to Honduras. The changes in sanitary and phyto-sanitary requirements are seldom reported to the WTO as required and create uncertainty among U.S. suppliers and Honduran importers.

126. Honduran law requires that all imported processed food products and medicines be labeled in Spanish or be accompanied by a Spanish translation, show expiration dates and be registered at the Division of Food Control in the Ministry of Public Health. Additional import restrictions, based mainly on public health, public morality, and national security grounds, remain in place. For example, restrictions are imposed on the importations of firearms and ammunitions, toxic chemicals and pornographic material.

127. U.S. citizens wishing to travel to Honduras do not need a visa prior to arrival. Foreigners interested in working in the country must obtain a resident visa from the Honduran Ministry of Government and a work permit from the Ministry of Labor. The time required to process a request for a resident visa and work permit may take up to three months.

#### ----- A.6. Right to Private Ownership and Establishment -----

128. The Investment Law guarantees both local and foreign investors the right to own property without limitations, other than those established by the Honduran Constitution and several laws relating to property rights. This guarantee includes the right to free acquisition, profit, use, disposition and any other right attributable to property ownership. The major exception is the constitutional prohibition of foreign ownership of land within 40 kilometers of international borders and shorelines, although Honduran law now permits foreign individuals to purchase properties in designated "tourism zones."

129. Investors have the right to freely establish, acquire and dispose of interests in business enterprises at market prices, under freely negotiated conditions and without government intervention. Private enterprises compete on an equal basis with public enterprises with respect to access to markets, credit and other business operations.

#### ----- A.7. Protection of Property Rights -----

##### 130. Intellectual Property Rights

There is widespread piracy of many forms of copyrighted works in Honduras -- movies, sound recordings and software. The illegitimate registration of well-known trademarks has also been a problem. Protection of Intellectual Property Rights (IPR) is handled by the Ministry of Industry and Trade. In 1994, following the passage of modern IPR legislation by the Honduran Congress, the Ministry established an office to process the registration of patents, trademarks and copyrights, as well as any complaints regarding their infringement.

131. Honduras largely complied with the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement by the January 1, 2000, deadline. In December 1999, the Honduran Congress passed two laws to correct deficiencies in previous legislation concerning copyrights, patents and trademarks. The Copyright Law adds more than 20 different criminal offenses related to copyright infringement and establishes fines and suspension of services that can be levied against offenders. The Law of Intellectual Property, which covers both trademarks and patents, includes modifications on patent protection for pharmaceuticals, extending the term from seventeen to twenty years to meet international standards. The term for cancellation of a trademark for lack of use has been extended from one year to three years. As soon as two new laws governing the designs of integrated circuits and plant variety protection are approved by the National Congress, Honduras will be in complete TRIPS compliance. Current expectations are that no action will be taken on these two laws until early 2004, but that the laws will then be included in a larger bill that is likely to pass.

132. Honduras and the U.S. initialed a bilateral IPR agreement in March 1999. Signing of this agreement is still pending. Honduras became a member of the World Intellectual Property Organization (WIPO) in 1983, and became party to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonogram Treaty (WPPT) in May 2002. Honduran law protects data exclusivity for a period of five years, and protects process patents, but does not recognize second-use patents.

#### 133. Land Rights:

Honduran laws and practices regarding real estate differ substantially from those in the United States, and there are many cases of disputed or fraudulent deeds and titles. In addition, the Honduran judicial system is weak and inefficient, often prolonging disputed cases for many years before resolution. There have been claims of widespread corruption in land sales and the registry and dispute resolution process, including claims against attorneys, real estate companies, judges and local officials. U.S. citizens have spent thousands of dollars in legal fees and years of frustration in trying to resolve property disputes.

134. Article 107 of the Honduran Constitution prohibits foreign ownership of property in Honduras that lies within 40 kilometers (25 miles) of the Caribbean Sea, Gulf of Fonseca or the international borders of Nicaragua, El Salvador and Guatemala and on any of the islands and cays belonging to Honduras.

135. However, recognizing that the constitutional prohibition of foreign property ownership in Honduras was a barrier to development of tourism and the economic potential of Honduras' coastal and island areas, the Honduran National Congress passed Decree Law 90/90 in 1990 to allow foreigners to purchase properties in designated tourism zones established by the Ministry of Tourism in order to construct permanent or vacation homes. Foreigners or foreign companies seeking to purchase property in designated tourism zones exceeding 3,000 square meters in size or for tourism or other development projects must present an application to the Honduran Tourism Institute at the Ministry of Tourism. In addition to providing the requested personal information, the potential buyer must also prove that a contract to buy a specific property exists and that it is registered with the Honduran Tourism Institute. The buyer must also present feasibility studies and plans about the proposed tourism or economic development project.

136. In 1999, the Honduran National Congress also passed a Tourism Incentives Law which offers tax exemptions for national and international investment in tourism development projects in Honduras. The law provides income tax exemptions for the first ten years of the project and permits the duty-free import of goods needed for the project, including publicity materials. In June 2002 a reformed law was passed, offering the same basic incentives, but with a narrower definition of who may qualify for the incentives. For example, restaurants were included as a duty-free tourist activity in the 1999 law, but removed in the 2002 law. This change is due in large part to the current saturation of the fast food and restaurant market, since many franchises established locations in Honduras under the duty-free incentives of the 1999 law. Other enterprises now excluded from the law's benefits are casinos, night clubs and movie theaters. In addition, a requirement was added that a business must be located in a designated tourism zone in order to qualify for tax exemptions and duty-free status.

#### ----- A.8. Transparency of the Regulatory System -----

137. The Honduran government does not publish regulations before they enter into force and there is no formal mechanism for providing proposed regulations to the public for comment. Regulations must be published in the official "Gazette" in order to enter into force. Honduras lacks an indexed legal code and lawyers and judges must maintain and index the publication of laws on their own.

138. Foreign market participants who are represented locally and are members of connected private sector groups essentially have access to the same information as their Honduran counterparts. The lack of a formal notification process excludes most non-governmental groups, including foreign companies, from commenting on regulations.

139. Application procedures for service suppliers in all sectors are generally simple, clear and non-discriminatory. There are restrictions preventing foreign banks from taking deposits, and foreign insurance companies may be subject to a more exhaustive administrative process than national providers per a new Insurance Law (though the Embassy has not received any complaints). Honduras' service sector is widely accessible to foreign companies, including current U.S. participation in the Honduran banking and insurance markets.

140. In both the banking and insurance sectors, the general rule is that foreign companies operate on an equal footing with local companies, so long as the foreign company establishes a branch or subsidiary in Honduras. However, there are restrictions on cross-

border services and offshore operations. Insurance may not be offered on a cross-border basis, and a foreign bank wishing to operate offshore must establish a representative office in Honduras, which entails reporting requirements and other procedures which are very cumbersome. Furthermore, a Honduran branch of foreign bank may only operate based on its capital in Honduras, not on its global or regional capital.

141. Honduran labor laws and the civil procedures code are outdated. The Honduran government often lacks the resources or political will to implement or enforce existing laws. Property registration often is not up to date, nor can the results of title searches be relied upon. There is no title insurance in Honduras. Procedural red tape to obtain government approval for investment activities is still very common.

#### ----- A.9. Efficient Capital Markets and Portfolio Investment -----

142. There are no government restrictions on foreign investors' access to local credit markets. However, the local banking system is conservative and generally extends only limited amounts of credit. Interest rates have been steadily declining for several years, but remain high. As of April 2003, the average lending rate for a loan in Lempiras as was 21.1 percent, down from 23.1 percent a year earlier, and for a loan in dollars was 10.7 percent, down from 11.6 percent a year earlier. Local banks should not be considered a significant source of start-up capital for new foreign ventures, unless they use specific business development credit lines made available by bilateral or multilateral financial institutions, such as the Central American Bank for Economic Integration. Loans from banks tend to be short-term, with substantial collateral and/or guarantee requirements.

143. There is a limited number of credit instruments available in the local market. Two security exchanges operate in the country: the Honduran Securities Exchange (BHV), in San Pedro Sula, and the Central American Securities Exchange, in Tegucigalpa. Both security exchanges are supervised by the National Banking and Insurance Commission. The instruments traded in these exchanges include bankers' acceptances, repossession agreements, short-term promissory notes, Honduran government private debt conversion bonds and land reform repayment bonds.

144. While any private business is eligible to trade its financial instruments on the security exchanges, firms that participate are subject to a rigorous screening process. Traded firms generally have economic ties to the different business/financial groups represented as either shareholders of the security exchanges or exchange trading houses. Supervision of the security exchanges has traditionally been inadequate, and even though a new law regulating the security exchanges was passed in June 2001, implementation has taken place slowly. By July 2003, implementation was nearly complete and expected to be completed by the end of the year. Nevertheless, investors should exercise caution before putting money into the Honduran security exchange.

145. There is no regulatory body for the accounting profession in Honduras. The Association of Public Accountants is responsible for certifying practicing professionals. In general, Honduran businesses adhere to international Generally Accepted Accounting Principles (GAAP). These principles are normally applied per guidelines from the Ministry of Finance's General Directorate for Taxation.

146. The Honduran banking system, currently comprised of 18 private banks, is considered weak and in need of consolidation. Most banks were originally founded primarily to service the financing needs of family-run business conglomerates, rather than provide full banking services to the public in a transparent manner.

147. In recent years, the Honduran banking system has been shaken by the bankruptcy of several major banking institutions. The first bank to collapse was Bancorp in 1999. In response to this collapse, the Honduran legislature enacted the Temporary Law of Financial Stabilization in an attempt to help stabilize the banking sector. Under this law, all bank deposits are insured by the State regardless of the sum. Currently, the Honduran government guarantees 100 percent of bank deposits, with the deposit insurance program (FOSEDE) paying up to \$10,000 or 150,000 Lempiras, and the government covering the remaining amount. After September 30, 2003, however, the government's guarantee will drop to 50 percent of the deposit. As in other countries, this deposit insurance only covers qualified deposits in banks, not in uninsured financial institutions.

148. When Banhcreser collapsed in 2001, the rules established in the temporary law helped to protect the bank's customers. With both the collapses of Banhcreser and Bancorp, allegations of corruption and wrongdoing followed the investigations into the causes of the bank's failures.

149. In December 2002, the National Banking and Insurance Commission (CNBS) announced the forced liquidation of Banco

Capital, which had been under government supervision since May 12002. At nearly the same time another bank, Banco Sogerin, was placed under the supervision of the Honduran Deposit Insurance Fund (Fosede). With both Banco Sogerin and Banco Capital failing at the same time, the CNBS delayed the initial sale of Banco Sogerin for several months to prevent wider damage to the banking system. The sale of Banco Sogerin was finally announced in July 12003.

150. The mixed success of CNBS's handling of the failed banks has attracted some criticism. Certain Honduran banking officials have criticized the CNBS for adding too many generalized rules with too many loopholes and for not enforcing the established banking regulations.

151. The Honduran financial system had total assets equivalent to 75 percent of GDP in 2002. The financial system is comprised of commercial banks, state-owned banks, savings and loans and finance companies. Banks account for 90 percent of total assets in the financial system. There is limited off-shore banking in Honduras.

152. There are no legal barriers to entry in the banking sector, but the small size of the market and weak financial situation have discouraged greater foreign investment. Four banks have majority foreign ownership as of 2002, accounting for 19 percent of total bank capital.

#### ----- A.10. Political Violence -----

153. Honduras has not experienced major problems with domestic political violence. Political demonstrations do occur sporadically, and they can disrupt traffic, but they are generally announced in advance and are usually peaceful. Most major demonstrations occur in downtown Tegucigalpa. Travelers should avoid areas where demonstrations are taking place, and they should keep informed by following the local news and consulting hotel personnel and tour guides.

#### ----- A.11. Corruption -----

154. Two codes regulate justice and provide for penalties against corruption: the Criminal Procedures Code (CPC) and the Penal Code (PC). In a landmark reform, the National Congress approved a new CPC in February of 2000, which entered into force in February 12002. The criminal judicial system has changed from a traditional written inquisitorial trial system to an adversarial, oral, and public trial system. The new CPC should improve justice and accountability in a number of ways, including increased transparency in the criminal process. The PC is currently under review and faces challenges in terms of funding and support. 155. The main responsibility for fighting corruption lies with the Public Ministry, under the direction of the Attorney General (Fiscal General). In January 2002, the Government created a new control entity, the Supreme Court of Accounts (TSC) which has brought together the Comptroller General of the Republic (CGR), the Directorate of Administrative Probity (Ethics office) and the Office of State Assets under one roof and direction of three members selected by the Congress. These three members are appointed for a period of 7 years. The presidency of the TSC is exerted in a rotating manner within the elected members for periods of one year. In the past few years, there has been an increase in the number of cases involving corruption adjudicated by the courts.

156. In June 2002, new money laundering legislation entered into force. The new bill expands the definition of the crime of money laundering to encompass any non-economically justified sale or movement of assets, including financing of terrorism, and calls for the creation of a financial information unit to track suspicious transactions. The bill also strengthens the powers of prosecutors to investigate and prosecute. However, as of July 2003, not a single person has ever been convicted of money-laundering in Honduras.

157. In May 1998, Honduras ratified, adopted and deposited its signature for the Inter-American Anti-Corruption Convention at the Specialized Conference of the Organization of American States (OAS).

158. Historically, U.S. firms and private citizens have found corruption to be a problem and a constraint to investment. Corruption appears to be most pervasive in government procurement, government permits, and in the buying and selling of real estate (land titling). With considerable U.S. help, the government is reforming Honduras' judicial system and reducing elite immunity and corruption, though serious problems remain in these areas. The U.S. and other donors, as part of the Hurricane Mitch reconstruction effort, have contributed significant funding to strengthen those institutions involved in the oversight of government expenditures.

159. Bribery is a criminal act and, depending on the degree of the

offense, is subject to fines or incarceration. A bribe to a foreign official is also a criminal act under U.S. law (Foreign Corrupt Practices Act).

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**B. Bilateral Investment Agreements**  
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160. On July 12, 2001, a Bilateral Investment Treaty (BIT) between the U.S. and Honduras entered into force. The Treaty provides for equal protection under the law for U.S. investors in Honduras and permits expropriation only in accordance with international law standards and accompanied by adequate compensation. U.S. investors in Honduras also have the right to submit an investment dispute to binding international arbitration. The U.S.-Honduras Treaty of Friendship, Commerce and Consular Rights (1928) provides for Most Favored Nation treatment for investors of either country. The U.S. and Honduras also signed an agreement for the guarantee of private investments in 1955 and an agreement on investment guarantees in 1966. Honduras signed a Tax Information Exchange Agreement with the U.S. in 1992.

161. Provisions for bilateral investment are included in commercial treaties between Honduras and Costa Rica, El Salvador, Guatemala, Panama and the Dominican Republic. In 1993 Honduras signed bilateral investment agreements with the United Kingdom and Spain.

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**C. OPIC & Other Investment Insurance Programs**  
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162. The U.S. Overseas Private Investment Corporation (OPIC) provides loan guarantees, which are typically used for larger projects, and direct loans, which are reserved for projects sponsored by or substantially involving U.S. small businesses and cooperatives. OPIC can normally guarantee or lend from USD 100,000 to USD 250 million per project. OPIC also offers insurance against risks of currency inconvertibility, expropriation and political violence.

163. Other countries, including Germany, the United Kingdom, Taiwan, Spain, Italy, Switzerland and Japan provide insurance and guarantees for their companies doing business in Honduras. In addition, Honduras is a party to the World Bank's Multilateral Investment Guarantee Agency (MIGA).

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**D. Labor**  
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164. Honduras has a significant availability of labor for industries with a demand for relatively low skilled workers, given the low level of education of a significant portion of its population. There is a limited supply of skilled workers in all technological fields, as well as in medical and high technology industries.

165. Union officials remain critical of what they perceive as inadequate enforcement by the Ministry of Labor (MOL) of workers' rights, particularly the right to form a union and bargain collectively, and the reinstatement of workers unjustly fired for union organizing activities. In November 1995, the MOL signed a Memorandum of Understanding with the U.S. Trade Representative's Office to implement 11 recommendations for enforcement of the Honduran Labor Code and the resolution of disputes. The MOL has implemented some of these recommendations, particularly as they relate to inspection and monitoring of assembly-for-export factories (maquilas). However, it has been slow to implement others due to resource constraints. Also, the Honduran Maquiladora Association initiated a code of conduct in July 1998 for the Maquiladora Association and its constituent companies. Through cooperation within the bipartite and tripartite commissions (unions, MOL, private sector) and other venues, MOL inspectors' access to maquila plants to enforce the labor code has improved, and MOL has continued to work to increase its effectiveness in enforcing worker rights and child labor laws.

166. The labor law prescribes a maximum 8-hour workday and 44-hour week. There is a requirement for at least one 24-hour rest period every week. The Labor Code provides for a paid vacation of 10 workdays after one year, and of 20 workdays after four years. The Constitution and Labor Code prohibit the employment of persons under the age of 16, except that a 15-year old may be permitted to work with the written permission of parents and the MOL. All persons under 18 years of age are prohibited from night work, dangerous work and full time work.

167. The Children's Code (September 10, 1996) prohibits a person of 14 years of age or less from working, even with parental permission, and establishes prison sentences of 3 to 5 years for individuals who allow children to work illegally. An employer who legally hires a 15-year-old must certify that the young person has finished or is finishing compulsory schooling. The MOL grants a number of work permits to 15-year-olds each year. Document fraud is prevalent among minors interested in working.

## E. Foreign Trade Zones/Free Ports

168. There are no known export subsidies provided by the Honduran government. The Temporary Import Law (RIT) allows exporters to introduce raw materials, parts and capital equipment (except vehicles) into Honduras exempt from surcharges and customs duties if the input is to be incorporated into a product for export (up to five percent can be sold locally). Export processing zones (ZIPS and ZOLIS) are exempt from paying import duties and other charges on goods and capital equipment. In addition, the production and sale of goods within the ZIPS and ZOLIS are exempt from state and municipal income taxes for the first ten years of operation. Companies operating in an export processing zone are permitted unrestricted repatriation of profits and capital and have access to onsite customs facilities. However, companies are now required to purchase the Lempiras needed for their local operations from Honduran commercial banks or from foreign exchange trading houses registered with the Central Bank.

169. The principal free trade zone (FTZ) in Honduras is located in Puerto Cortes and is operated by the Honduran government through the National Port Authority. In 1998, the government extended FTZ benefits to the entire country. Privately-owned free trade zones are legal extensions of official free trade zones. In terms of operations and incentives, they are identical to the privately operated industrial parks.

170. There are 27 industrial parks currently operating in Honduras. Over 80 percent of the parks are located in the North Coast region, with close access to Puerto Cortes, Honduras' major Caribbean port, and San Pedro Sula, a transportation crossroads. Industrial parks and export processing zones are treated as offshore operations. Subsequently, customs duties must be paid on products manufactured in the parks and sold in Honduras. In addition, if Honduran inputs are used in production, they are treated as exports and must be paid for in U.S. dollars. Ninety percent of the companies that operate in these parks are involved in apparel assembly. The government and park operators are seeking to diversify into other types of light industry, including footwear, automotive parts, electronics assembly and data processing services.

171. Privately-owned Tourism Free Zones (ZOLT) may be established to promote the tourism industry development in Honduras. The law allows the free importation of equipment, supplies, and vehicles to the exclusive benefit of the ZOLT, with certain restrictions (see the description of the tourism law in section A.7, above).

## Maquila Industry

172. Honduras currently ranks as the third largest exporter of textiles and apparel to the U.S., and the first among Central American nations. However, the slowdown and sluggish recovery of the U.S. economy during 2001 and 2002 continue to have a depressing effect on the Honduran maquila sector, and the future is clouded by fears of being unable to compete with China and other Asian producers after the removal of quotas in 2005. Benefits under the Caribbean Basin Trade Partnership Act (CBTPA) have helped to establish the maquila industry in Honduras, but officials in the maquila sector hope that improved market access and rules of origin currently under negotiation for the Central America Free Trade Agreement (CAFTA) will provide increased opportunities.

173. Total investment in the maquila sector surpassed USD 1.5 billion in 2002, but employment in the sector has fallen by 15 percent from 2000 to 2002. One reason for this decrease in employment is the closing of 13 maquilas in 2002 as a result of the U.S. market slowdown and Honduran management problems.

## F. Foreign Direct Investment Statistics

174. In Honduras, figures for investment in the maquila industry are kept separately from figures for investment in the rest of the economy. Table 1 below shows the flows of FDI into Honduras in recent years, excluding the maquila industry. According to the Central Bank of Honduras, total flows of non-maquila investment in 2002 totaled USD 142.9 million, down 27 percent from 2001. The United States supplied 54.5 million, or 38 percent, of this investment. A breakdown of this investment by industry was not available.

175. TABLE 1  
HONDURAS: FLOWS OF FOREIGN DIRECT INVESTMENT BY COUNTRY,  
NOT INCLUDING THE MAQUILA SECTOR  
(In Millions of U.S. Dollars)

COUNTRY	2000	2001	2002
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United States	64.2	52.6	54.5
Canada	36.1	15.1	18.1
El Salvador	7.9	9.2	11.8
Costa Rica	21.2	24.1	9.8
Panama	15.1	18.1	8.8
Italy	13.6	7.6	6.2
Guatemala	11.1	10.8	6.0
Spain	7.8	9.8	5.4
United Kingdom	15.0	4.3	4.8
Japan	0.0	1.2	1.2
Switzerland	-4.1	-1.3	0.5
Mexico	-0.1	0.2	0.2
Germany	0.2	0.2	0.2
Other	94.1	43.1	15.2
TOTAL	282.0	195.0	142.9

Source: Central Bank of Honduras

176. TABLE 2  
HONDURAS: GDP AND FOREIGN INVESTMENT FLOWS,  
NOT INCLUDING THE MAQUILA SECTOR  
(In Millions of U.S. Dollars)

	2000	2001	2002
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GDP	5,952.1	6,248.4	6,389.7
FDI Flows	282.0	195.0	142.9
FDI Flows as percentage of GDP	4.7	3.1	2.2

Source: Central Bank of Honduras

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Maquila Sector Statistics  
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177. In the maquila sector, total accumulated investment reached USD 1.56 billion in 2002, up from 1.421 billion in 2001 and 1.237 billion in 2000. A detailed breakdown of investment by country of origin for 2002 was not available; however, Table 3 provides this information for the year 2001, and Table 4 shows investment origin by number of companies established (not dollar value of investment) for 2002.

178. TABLE 3  
HONDURAS: ACCUMULATED INVESTMENT IN MAQUILA SECTOR, 2001  
(In Millions of U.S. Dollars)

	Amount (USD millions)	Percent of Total
Honduras	670.1	47.1
U.S.	370.2	26.0
Korea	145.5	10.2
Hong Kong	43.8	3.1
Taiwan	55.2	3.9
China	33.8	2.5
Singapore	18.8	1.3
Canada	49.2	3.5
Other	35.0	2.5
Total	1421.6	100.0

Source: Honduran Maquila Association

179. TABLE 4  
HONDURAS: INVESTMENT ORIGIN IN MAQUILA SECTOR, 2002  
(Number of Companies Established)

	Number of Companies	Percent of Total
U.S.	87	40
Honduras	67	31
Korea	33	15
Hong Kong	9	4
Taiwan	4	2
Other	17	8
TOTAL	217	100

Source: Honduran Maquila Association

180. There are no records kept on Honduran investment abroad.

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Major Foreign Investors  
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181. The following is a partial list of foreign firms and

franchises of foreign firms operating in Honduras, with a description of the type of investment and country of origin.

Investor	Country	Type of Investment
Agro Internacional de Honduras	U.S.	Agricultural products
Alpha-Graphics	U.S.	Printing services
Alberti Food Co.	U.S.	Food products
Alimentos Concentrados Nacionales	U.S.	Veterinary food
American Airlines	U.S.	Air services
Americar	U.S.	Car distributors
America's Favorite Chicken	U.S.	Fast food
American Home Assurance Co.	U.S.	Insurance services
American International Group	U.S.	Insurance services
Americatel	U.S.	Telecommunications
Antonino's Pizza	U.S.	Fast food
Applewoods	United Kingdom	Cosmetics
Applebee's	U.S.	Restaurant
Arthur Andersen Consulting	U.S.	General Business
Astaldi, s.p.a.W.A.	ITA	Engineering services
Azucarera "La Grecia"	Guatemala	Sugar mill
BAT Industries PLC	United Kingdom	Tobacco products
Bay Island Fish Co.	U.S.	Seafood
Bayer	Germany	Pharmaceutical products
Benetton	ITA	Casual clothing
Bennigan's	U.S.	Restaurant
Best Western Hotel	U.S.	Hotel
Bojangles	U.S.	Restaurant
Breakwater Resources Corp.	CAN/U.S.	Mining
Bristol Myers Squibb	U.S.	Beauty products
Budget Rent a Car	U.S.	Car rental
Burger King Inc.	U.S.	Fast food
Candy Bouquet	U.S.	Candy Store
Cargill, Inc.	U.S.	Animal feed, poultry & meat processing
Castle & Cooke, Inc.	U.S.	Bananas and other Agricultural products; Bottling and brewing
Caterpillar Tractors	U.S.	Spare parts, accessories
Cerveceria Hondurena, S.A.	U.S.	Soft drinks and beers
Chestnut Hill Farms	U.S.	Agricultural products
Chiquita Brands International	U.S.	Bananas and other Agricultural products; plastic products manufacturing
Church's Chicken	U.S.	Fast food
Cinemark	U.S.	Entertainment
Citibank	U.S.	Banking and financial services
Citrus Development Corp.	U.S.	Citrus production

and processing

Colgate-Palmolive	U.S.	Personal care products
Congelados Holanda	Mexico	Ice cream
Continental Airlines	U.S.	Air services
CPC International	U.S.	Corn starch
Crowley American Transport	U.S.	Ocean freight services
Crowne Plaza Hotel	U.S.	Hotel services
Cultivos Marinos	U.S.	Shrimp farm
Cybex	U.S.	Health & fitness
Daimler Crysler Corporation	U.S.	Cars
Demahsa	Mexico	Corn flour
DHL	U.S.	Air freight services
Domino's Pizza	U.S.	Fast food
Dos Pinos	Costa Rica	Ice cream and milk products
Dry Cleaning USA	U.S.	Dry cleaning services
Empacadora Cortes, S.A.	U.S.	Meat production; packing
Electrical & Consulting Petroleum Training Programs Services, Inc.	U.S.	Engineering
Elektra	Mexico	Household goods/appliances
Ernst & Young International	U.S.	Accounting & auditing services
Espresso Americano	U.S.	Fast food
Exxon	U.S.	Petroleum products marketing
Federal Express	U.S.	Air freight svcs.
Five Star Mining	U.S.	Mining exploration
From the Ground Up/Tipman	U.S.	Trading and consulting
G.B.M. de Honduras	U.S.	Computer services
Glamis Gold, Ltd.	U.S.	Gold mining
Global One Communication	U.S.	Telecommunications
Gold's Gym	U.S.	Health & fitness
Grey Advertising Inc.	U.S.	Advertising services
Grupo Granjas Marinas	U.S.	Shrimp farms
H.B. Fuller	U.S.	Adhesives; paints
Hertz Rent a Car	U.S.	Car rental
Holiday Inn Hotel	U.S.	Hotel
Hotel Intercontinental /Camino Real (Grupo Roble)	El Salvador	Hotel
Hotel Princess	Guatemala	Hotel
House of Windsor	U.S.	Tobacco
IBM	U.S.	Business machines; Computer software
Industrial Engineers, Inc.	U.S.	Repair & construction, naval vessels
Kimberly-Clark	U.S.	Paper products; Pharmaceutical products

KPMG Peat Marwick	U.S.	General business consultants
La Costena	Mexico	Canned foods
Little Caesar's Pizza	U.S.	Fast food
Lloyd's Bank PLC	United Kingdom	Banking services
Lucent Technologies	U.S.	Telecommunications
Mail Boxes, etc.	U.S.	Courier services and copy center
Martinizing	U.S.	Dry cleaning services
McDonald's	U.S.	Fast food
McCann Erickson	U.S.	Advertising; publicity
Midas International	U.S.	Automotive parts & Services
Motorola	U.S.	Telecommunications
Moore Business Forms	U.S.	Business forms
Multiplaza Malls (Grupo Roble)	El Salvador	Shopping center chain
Nestle Products	Switzerland	Food products
Oil Butler	U.S.	Oil change
Oracle	U.S.	Software
Pakmail	U.S.	Packaging and Courier Services
Pan Bimbo	Mexico	Bread products
Pan American Life Ins. Co.	U.S.	Life insurance
Papa John's	U.S.	Fast food
Parker Tobacco	U.S.	Cigars
Payless	U.S.	Footwear
Paysen	Germany	Pharmaceutical products
Peat, Marwick, & Mitchell	U.S.	Accounting and auditing services
Phelps-Dodge	U.S.	Electric wire & Cable manufacturing
Pizza Hut International	U.S.	Fast food
Pollo Campero	Guatemala	Fast food; Animal feed; Poultry processing
Popeye's	U.S.	Fast food
PriceSmart	U.S.	Warehouse stores
Price Waterhouse	U.S.	Accounting & auditing services
Quick Internet	U.S.	Telecommunications, internet services
<a href="#">R. Rodriguez y Asociados</a>	U.S.	General Business consulting
Radio Shack	U.S.	Electrical Appliances
RJR-Nabisco	U.S.	Food products
Roches Brothers Entertainment	U.S.	Entertainment
Ruby Tuesday's	U.S.	Restaurant
Sabritas	Mexico	Snacks
Scott Paper, Inc.	U.S.	Paper products
Seaboard Marine Corp.	U.S.	Winter fruits & vegetables; aquaculture; ocean freight

services

Sealand Service, Inc.	U.S.	Ocean freight services
Sears	U.S.	Household goods
Select	United Kingdom	Convenience store
Shell	United Kingdom /Holland	Petroleum products marketing
Siemens	Germany	Telecommunications
Smith-Kline Beecham	United Kingdom	Pharmaceutical
Sprint	U.S.	Telecommunications products
Standard Fruit Co.	U.S.	Tropical fruits
Star Mart	U.S.	Convenience store
Stewart & Stevenson	U.S.	Electricity generation
Subway	U.S.	Fast food
TAHSA	United Kingdom	Tobacco
TACA	El Salvador	Air services
TCBY	U.S.	Fast food
Technology Research Corp.	U.S.	Electrical supplies
Texaco	U.S.	Petroleum products marketing
TGI Friday's	U.S.	Restaurant
3M	U.S.	Office supplies
Tony Roma's	U.S.	Restaurant
Tropical Gas Company	U.S.	Appliance and other equipment
Truly International	U.S.	Pest control
Unilever	United Kingdom /Holland	Cleaning Products, Beverages, Food
United Marketing (Unimerco)	U.S.	Marketing services
United Parcel Services	U.S.	International Courier
United Technologies Automotive	U.S.	Automobile Electronics assembly
U.S. Tobacco	U.S.	Cigars
Van Ommeren-Ceteco	Netherlands	Trading/retailing
Wellington Hall Caribbean, Inc.	U.S.	Furniture
Wendy's International	U.S.	Fast food
Witten International	U.S.	Apparel
Xerox Corp.	U.S.	Business machine sales & services
Pierce		